

Serial No.: 10/019,193

Art Unit: 2623

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Remarks/Arguments

The Office Action mailed February 23, 2007 has been reviewed and carefully considered.

Claims 1-4 and 6 have been amended. Claims 1-10 remain pending in this application.

Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claim objections

The Examiner's claim objections have been reviewed and noted. Claims 2 and 3 have been amended, and in view of such amendments are believed to overcome these objections. Reconsideration and withdrawal of the objections is respectfully requested.

Claims rejections

Claims 1-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over USP 5,758,257 to Herz et al., in view of USP 6,337,719 to Cuccia. The Applicant would like to point out that Herz et al. does not disclose or suggest the modification of broadcast information at the "receiver" level, and is clearly directed to modifying the broadcast information at the broadcast or transmitter level, before it is even transmitted to and/or received by a customer's receiver. This fact alone shows that Herz et al. teaches away from the present principles and therefore cannot be used as the primary reference in this obviousness rejection.

Serial No.: 10/019,193
Art Unit: 2623

Notwithstanding the foregoing, in reviewing this rejection, as it relates to independent claims 1 and 6, the Examiner asserts that Herz discloses the triggering of a consistency check between the customized list and the updated list. In making this assertion, the Examiner cites Herz et al. at Col. 21, line 53 – Col. 24, line 58, Col 26, line 51 – Col. 27, line 46, Col. 29, lines 6-51, Col. 30, line 20+ and Col. 45, lines 9-55. The Applicant has reviewed these portions of Herz et al., and respectfully submits that there is no disclosure or suggestion of a disclosure indicating that the system of Herz et al. performs any such consistency check.

Herz et al. discloses a system and method for scheduling broadcasts of and access to video programs and other data using customer profiles. This patent deals with the scheduling the receipt of desired programming to customers based on customer profiles. Herz et al. used the customer profiles to create an “agreement matrix” which is a comparison between the user profile and what is available for broadcast, at the broadcast level. The agreement matrix operates to “characterize” the attractiveness of each available source of video programming or data to each customer based on their profile entries. From the agreement matrix, one or more “virtual channels” of data, customized to each customer, are determined. This concept of an agreement matrix, does not compare the user’s preference for a service (as set forth in a customer profile) with an updated service list received at the receiver. As such, the Examiner’s blanket application of such matrix to the present principles is not supported by the disclosure of Herz et al.

Furthermore, Herz et al. teaches that the method of the invention is used for “scheduling customer access” to video programs and other broadcast data. The concept of scheduling customer access to programming is completely different than customizing a

Serial No.: 10/019,193
Art Unit: 2623

program guide based on a master program guide (as updated), and as set forth by the present principles

According to the present principles, the customer profile is created by the customer and contained in a stored list within the receiver. In stark contrast, Herz et al. teaches "The initial customer profiles are determined by questionnaires, customer demographics, relevance feedback techniques, default profiles, and the like, while the initial content profiles are determined from questionnaires completed by experts or some sort of customer panel" (Col. 4, lines 43-47). It is only after customer profiles are created does the "transmission" of one or more customized programming channels occur. Thus, Herz et al. teaches the use of customer profiles and preferences for the purpose of determining what is going to be transmitted to the customer, while the present principles does not make such determination and is not at all concerned with changing broadcasts to customers at the broadcast level.

Furthermore, there is no suggestion or even remote disclosure in Herz et al. where there is a verification of a service contained in a stored customized list as compared with a received updated list by a Receiver. Herz et al. cannot make such suggestion, and actually teaches away from such concept because they are not concerned with updated information in the receiver and/or dealing with the customer profile at the receiver level.

The citation of Cuccia for receiving information while in a sleep or powered down mode is not relevant. Herz et al. does not providing updating of the agreement matrix or any of the broadcast channels based on newly received (or updated) programming data at the receiver. As such, it is irrelevant from the perspective of Herz et

Serial No.: 10/019,193

Art Unit: 2623

al. whether there is any updating going on during power down modes of the receiver that Herz et al. does not utilize as claimed and disclosed by the present principles.

Thus, for at least the reasons cited above, independent claims 1 and 6, as amended, are believed to be allowable and therefore applicant respectfully requests entry of these amendments, withdrawal of the rejections and early allowance on the merits.

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JUN 25 2007

Conclusion

In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Office Action of February 23, 2007 be withdrawn, that pending claims 1-10 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

Applicants request a one-month extension to file this response under 37 C.F.R. 1.136(a). Please charge the fee for this one-month extension (as this response was due with a one-month extension on June 23, 2007 which fell on a Saturday and this response is being submitted on June 25, 2007, the next business day) to Deposit Account 07-0832. Applicants also request that the fee for the Request for Continuing Examination being filed with this response (as well as any other fees owed in connection with this response) be charge to this deposit account, as well.

Respectfully submitted,

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Serial No.: 10/019,193
Art Unit: 2623

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Date: June 25, 2007